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AUG - 9 2001

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THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GLADWIN WILSON

Petitioner,

v.

IMMIGRATION AND  
NATURALIZATION SERVICE

Respondent.

CIVIL ACTION NO. 1: 01-1226  
Agency No. A41-928-716

(JUDGE CALDWELL)

MOTION TO DISMISS FOR LACK  
OF JURISDICTION AND FAILURE  
TO STATE A CLAIM UPON WHICH  
RELIEF CAN BE GRANTED

Respondent, through undersigned counsel, hereby moves the Court to dismiss Gladwin Wilson's habeas corpus petition challenging the order of removal pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction and Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. As stated in the attached declaration, petitioner is not entitled to the relief sought because petitioner is not entitled to habeas relief in this Court where the Court of

Appeals retains jurisdiction over the merits of his claim and where petitioner has no claim for relief because his case has been previously decided in the Court of Appeals.

Respectfully submitted,

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Dated: August 3, 2001

ATTORNEYS FOR RESPONDENT

### CERTIFICATE OF SERVICE

I hereby certify that one copy of the foregoing Motion to Dismiss for Lack of Jurisdiction and Failure to State a Claim upon which Relief Can Be Granted was served on petition by placing the same in the United States Department of Justice mailroom for same day mailing, postage prepaid, on August 6, 2001, addressed to:

Gladwin Wilson  
Register # 9900345  
Snyder County Prison  
600 Old Colony Rd.  
Selinsgrove, PA 17870

  
Ernesto H. Molina, Jr.  
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